REMARKS/ARGUMENTS

This Amendment is responsive to the Office Action dated February 8, 2007. Claims 1-5, 7, 8, 10, 13 and 22-25 were pending in the application. In the Office Action, claims 1-5, 7, 8, 10, 13 and 22-25 were rejected. In this Amendment, claim 1-5, 7, 8, 10, 13 and 22-25 are cancelled and new claims 26-41 are added. Claims 26-41 remain for consideration.

Applicant submits that claims 26-41 are in condition for allowance and requests withdrawal of the rejections in light of the following remarks.

A. Claim Rejection Under 35 U.S.C. § 103(a)

Claims 1-5, 7, 8, 10, 13 and 22-25 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 4,636,414 to Tajima et al. (hereafter "Tajima") in view of U.S. Patent No. 6,990,779 to Kiik et al. (hereafter "Kiik").

Claims 1-5, 7, 8, 10, 13 and 22-25 have been cancelled. Accordingly, the above rejection is considered moot.

B. New Claims

New claims 26-41 have been added to the application.

Applicant submits that independent claim 26 is patentable over Tajima and Kiik -- either taken alone or in combination.

Applicant's invention as recited in independent claim 26 is directed toward an impact resistant roofing shingle. New independent claim 26 discloses an impact resistant roofing shingle comprising: (1) a non-woven glass fiber substrate, (2) an asphalt coating having a first melting temperature, (3) a plurality of granules, (4) an organic film having high-impact

resistance qualities and a second melting temperature and (5) a modified asphaltic adhesive having a third melting temperature. Claim 26 further specifies that the third melting temperature is higher than the first melting temperature thereby allowing the modified asphaltic adhesive to prevent and seal cracks that may develop in the roofing shingle, and the second melting temperature is independent of the first and third melting temperatures. (See paragraphs [0050]-[0051])

Examiner admits that Tajima does not teach "a rubber polymer modified asphalt layer [that] is between the nonwoven glass fiber and the organic film." To overcome this deficiency, Examiner relies on Kiik for the teaching that a coated substrate may be covered with preformed plastic films which are attached to the coated substrate with an adhesive. As disclosed in Kiik, the adhesive can be an asphaltic adhesive, such as an asphaltic adhesive similar to standard laminated adhesives.

In Kiik, however, the adhesive is merely a standard adhesive that adheres the coated substrate to a water vapor impermeable material. In contrast, the adhesive of the present invention is a non-standard, modified asphaltic adhesive that has a dual purpose. The first is to adhere an organic film to a coated substrate. And second, Applicants use a modified asphaltic adhesive that has a melting temperature higher than the melting temperature of the asphalt coating. This difference in melting temperature allows the modified asphaltic adhesive to prevent and seal cracks in a hung shingle. Further, the difference in melting temperatures combined with an organic film having high-impact resistant qualities clearly differentiates the present invention from Tajima and Kiik.

Another feature that was realized from the present invention is that since the modified asphaltic adhesive prevents and seals cracks in a hung shingle, a wider range of high-impact

materials may be used in the present invention because the melting temperature of the high-impact material does not depend on the melting temperatures of the modified asphaltic adhesive or asphalt coating.

Since Tajima and Kiik do not disclose a shingle that has (1) an asphalt coating having a first melting temperature, (2) an organic film having high-impact resistance qualities and a second melting temperature and (3) a modified asphaltic adhesive having a third melting temperature, (4) whereby the third melting temperature is higher than the first melting temperature thereby allowing the modified asphaltic adhesive to prevent and seal cracks that may develop in the roofing shingle, and the second melting temperature being independent of the first and third melting temperatures, Applicants believe that independent claim 26 is patentable over Tajima and Kiik -- either taken alone or in combination -- on at least the above basis.

Claims 27-41 depend on claim 26. Since claim 26 is believed to be patentable over Tajima and Kiik, claims 27-41 are believed to be patentable over Tajima and Kiik on the basis of their dependency on claim 26.

Reconsideration and withdrawal of the present rejections is respectfully requested.

CONCLUSION

In view of the aforementioned remarks and amendments, the Applicants believe that each of the pending claims is in condition for allowance. If, upon receipt and review of this amendment, the Examiner believes that the present application is not in condition for allowance and that changes can be suggested which would place the claims in allowable form, the Examiner is respectfully requested to contact Applicants' undersigned counsel at the number provided below.

Please charge any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 03-1250 (Ref. No. FDN-2824).

Respectfully submitted,

Date: 5/8/07

Barry J. Marenberg, Esq
Reg. No. 40,715

Sills Cummis Epstein & Gross P.C.
One Riverfront Plaza
Newark, New Jersey 07102-5400
Telephone: 973-643-5312